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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/496,783	02/03/2000	Albert G. Lintel III	ZANS.10001NP	6688

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EXAMINER

KAPADIA, MILAN S

ART UNIT

PAPER NUMBER

3626

DATE MAILED: 04/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/496,783

Applicant(s)

LINTEL III ET AL.

Examiner

Milan S Kapadia

Art Unit

3626

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Notice to Applicant

1. This communication is in response to the amendment filed 24 March 2003.

Claims 17-19 and 21-24 are pending. Claim 20 has been canceled.

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 17-19 and 21-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Spurgeon et al (5,890,129) and further in view of Peterson et al. (6,343,271).

(A) As per claim 17, Spurgeon teaches a healthcare information system comprising: a plurality of provider office systems (Spurgeon; abstract and figure 1), each provider office system comprising:

circuitry for generating referral requests with reference to a database associating insurance health plans with doctors (Spurgeon; abstract, col. 6, lines 24-41, col. 8, lines 17-21);

referral authorization circuitry for:

receiving referral requests (Spurgeon; abstract),

generating electronic authorization requests to an associated insurance company responsive to ones of said referral requests (Spurgeon; abstract),

receiving an electronic authorizations/denial for each electronic authorization request (Spurgeon; abstract).

updating said database responsive to said research (Spurgeon; col. 7, line 45-col. 8, line 16 and col. 11, lines 1-11

Spurgeon fails to expressly disclose forwarding denied authorization requests to a third party human researcher for further research. However, this feature is old and well known in the art as evidenced by Peterson's teachings with regards to forwarding denied authorization requests to a third party human researcher for further research (Peterson; col. 13, lines 23-64). It would have been obvious to one having ordinary skill in the art at the time the invention was made to expand Spurgeon's system to forward denied authorization requests to a third party human researcher for further research, as taught by Peterson, with the motivation of enabling denied authorization requests to be processed further (Peterson; col. 2, lines 40-41).

Art Unit: 3626

(B) As per claim 18, Spurgeon fails to expressly disclose wherein said referral authorization circuitry further forwards referral requests that cannot be authorized electronically to a third party human researcher. However, this feature is old and well known in the art as evidenced by Peterson's teachings with regards to wherein said referral authorization circuitry further forwards referral requests that cannot be authorized electronically to a third party human researcher (Peterson; col. 10, line 50-col. 11, line 76). It would have been obvious to one having ordinary skill in the art at the time the invention was made to expand Spurgeon's system to forward referral requests that cannot be authorized electronically to a third party human researcher, as taught by Peterson, with the motivation of enabling a proposed request that is consistent with fraud, unintentional error, or for some other reasons to be reviewed more thoroughly (Peterson; col. 4, lines 35-42).

(C) As per claim 19, Spurgeon teaches a central information system having a global database of referral information in communication with said provider office systems (Spurgeon; col. 7, lines 8-27; the examiner interprets the "information-exchange system" as a "central information system.")

(D) As per claim 21, Spurgeon teaches wherein said authorization requests are EDI messages (Spurgeon; col. 7, lines 8-27; the examiner interprets reformatting of data to be compatible with insurer or provider as a form of electronic interchange).

Art Unit: 3626

(E) Method claims 22-24 repeat the subject matter of system claims 17, 17 and 18, and 18, respectively, as a series of steps rather than a set of apparatus elements. As the underlying structure of claims 17 and 18 has been shown to be fully disclosed by the teachings of Spurgeon and Peterson in the above rejections of claims 17 and 18, it is readily apparent that the system disclosed by Spurgeon and Peterson include the steps to perform these functions. As such, these limitations are rejected for the same reasons given above for system claims 17 and 18, and incorporated herein.

Response to Arguments

2. Applicant's arguments filed 3/24/03 have been fully considered but they are not persuasive. Applicant's arguments will be addressed herein below in the order in which they appear in the response filed 3/24/03.

(A) At pages 3 and 4 of the 3/24/03 response, it is respectfully submitted, that Applicant's first argument is unclear and confusing. Applicant describes what is taught by the Peterson reference, and in particular how the choice between automatic adjudication and manual adjudication is made. Then the Applicant states "Peterson does show a system that invokes a manual adjudication responsive by a denial of a claim by the insurance company." It is unclear whether Applicant made a typographical error and is arguing that Peterson does not teach the cited feature. If Applicant is arguing that Peterson does not teach the alleged feature, the Examiner maintains that

Art Unit: 3626

Peterson does teach the cited feature. Furthermore, the Examiner is concerned that, aside from merely alleging that certain claimed features are not obvious from Spurgeon and Peterson essentially in the form of blanket statements, Applicant does not point to any specific distinction(s) between the features disclosed in the references and the features that are presently claimed. In particular, 37 CFR 1.111(b) states, "A general allegation that the claims define a patentable invention without specifically pointing out how the language of the claims patentably distinguishes them from the reference does not comply with the requirements of this section." Applicant has failed to specifically point out how the language of the claims patentably distinguishes them from the applied references. Also, arguments or conclusions of Attorney cannot take the place of evidence. *In re Cole*, 51 CCPA 919, 326 F.2d 769, 140 USPQ 230 (1964); *In re Schulze*, 52 CCPA 1422, 346 F.2d 600, 145 USPQ 716 (1965); *Mertizner v. Mindick*, 549 F.2d 775, 193 USPQ 17 (CCPA 1977).

(B) At pages 4 and 5 of the 3/24/03 response, Applicant argues "Peterson reference either alone or in conjunction with Spurgeon, does not show a system where denials cause an update of the database" in reference to claim 1. In response, the Examiner respectfully submits that the Applicant has not considered the full teaching of Spurgeon. The cited passage that Applicant argues does indeed only teach that "denied authorizations are sent to the healthcare provider." In particular, Spurgeon states that "denied prior authorizations are preferably transmitted to the provider interface computer only." Spurgeon further teaches that Push technology is used to

Art Unit: 3626

transmit information between the information-exchange computer and the provider interface computer and also teaches updating the associated databases (Spurgeon; col. 7, line 45-col. 8, line 16). As such, it is respectfully submitted that the combined system of Spurgeon and Peterson collectively do teach the cited feature.

Furthermore, it is also noted that the features upon which applicant relies (i.e., correct the database such that future referrals are not made to the same physician) are not recited in the rejected claim (s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 998 F.2d 1181, 26 USPQ2d 1057 (Fed Cir. 1993).

Conclusion

3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited but not applied art teaches health care payment adjudication and review system (5,359,509); a system and method for detecting fraudulent medical claims via examination of service codes (5,253,164); and a program for the manual review of denied authorization requests ("Reducing Medicaid spending on long-term care," *The Business Journal*, May 12, 1997, volume 11, issue 10).
4. All claims are drawn to the same invention claimed in the application prior to the entry of the submission under 37 CFR 1.114 and could have been finally rejected on the grounds and art of record in the next Office action if they had been entered in the application prior to entry under 37 CFR 1.114. Accordingly, **THIS ACTION IS MADE**

Art Unit: 3626

FINAL even though it is a first action after the filing of a request for continued examination and the submission under 37 CFR 1.114. See MPEP § 706.07(b).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Milan S Kapadia whose telephone number is 703-305-3887. The examiner can normally be reached on Monday through Thursday, 8:30 A.M. to 6:00 P.M. In addition the examiner can be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Thomas can be reached on 703-305-9588. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Application/Control Number: 09/496,783


Page 9

Art Unit: 3626

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

mk

April 1, 2003


DINH X. NGUYEN
PRIMARY EXAMINER